

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, : S1 11 Cr. 01091 (VM)
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 : NOTICE OF PRETRIAL
 : MOTIONS PURSUANT TO
 : RULE 12(b), FED.R.CRIM.P.
PETER LESNIEWSKI, :
 : (Electronically Filed)
Defendant. :
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PLEASE TAKE NOTICE, that upon the annexed Declaration of Joshua L. Dratel, Esq., the exhibits thereto, the accompanying Memorandum of Law, the separately filed Declaration of Paul Bergman, Esq., the exhibits thereto, and all prior papers and proceedings herein, the defendant, PETER LESNIEWSKI, will move before the Honorable Victor Marrero, United States District Judge for the Southern District of New York, at the United States Courthouse located at 500 Pearl Street, New York, New York, as soon as counsel may be heard, for an order:

- (a) granting Dr. Lesniewski's motion for inspection or *in camera* production of the grand jury minutes;
- (b) granting Dr. Lesniewski's motion for the disclosure of favorable evidence regarding the decision of the U.S. Attorney for the Eastern District of New York not to pursue an indictment after investigating the same alleged criminal conduct set forth in the Superseding Indictment in this case;
- (c) suppressing and/or excluding from trial any and all information, documents, evidence, and fruits thereof, and any projected testimony, gained as a result of the

government's amnesty program, and/or an order directing the government to halt its abuse of the grand jury;

- (d) granting Dr. Lesniewski's motion for the immediate production of the original underlying materials providing the basis for the government's statistical data referred to in the Indictment, along with any statistical summaries presented to the grand jury;
- (e) granting Dr. Lesniewski's motion for a pretrial evidentiary hearing, or in the alternative, requiring a formal written proffer by the government that permits the Court to determine preliminarily the admissibility of co-conspirator statements against Dr. Lesniewski;
- (f) permitting Dr. Lesniewski to join in the other motions filed by his co-defendants to the extent they inure to his benefit, and for leave to join in any additional motions that counsel is not appraised of at the time of filing; and
- (g) for any such other and further relief as to the Court seems just and proper.

Dated: September 14, 2012
New York, New York

Respectfully submitted,

/s/Joshua L. Dratel
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To: THE HON. VICTOR MARRERO
UNITED STATES DISTRICT JUDGE

UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF NEW YORK